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TAGS: [PGOV](#) [PHUM](#) [SOCI](#) [SCUL](#) [CH](#)  
SUBJECT: HOMEOWNER ASSOCIATIONS -- A MODEL FOR GRASSROOTS GOVERNANCE  
AND COMBATTING CORUPTION?

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CLASSIFIED BY: James Boughner, Consul General, United States  
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REASON: 1.4 (b), (d)

¶1. (C) Summary: Consulate contacts recently described the role of homeowner associations in rights protection at the local level, referring to them as a central point for democratic reforms in China. The homeowner rights movement in Chengdu, which began in 2004, recently resulted in the establishment of the Chengdu Fu River Democratic Home Owners Association (Chengdu HOA). The most difficult obstacle for the Chengdu HOA is divergence of opinion between members who seek to protect homeowner rights and others who participate only to make money for themselves, according to one contact. One of the principal motivating factors for the creation of active homeowner associations is the perceived need to combat corruption and collusion between real estate developers and property management companies. In many cases homeowner associations lack control over communal assets and are unaware of, or do not know how to protect resident's rights. Corruption is rampant from the "ground up" in the first stages of the real estate development process. Homeowner rights advocacy in Beijing appears to be at a more advanced stage than it is in Southwest China as there are cases in which associations have successfully protected their rights against powerful developers and property management companies. The nascent homeowner rights protection movement in Chengdu has the potential to be beneficial to a growing segment of middle-class property owners, but runs the risk of being stymied by local government structures uncomfortable with large and vocal groups that could potentially threaten social stability and undermine Party authority. End Summary.

Background

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¶2. (C) In separate meetings, a Chengdu homeowner association (HOA) leader and an American scholar studying the issue of grassroots governance in China discussed with us the importance of these community organizations in rights protection at the local level. Xie Songru (strictly protect) is a retired university professor and former Communist Party member who has taken a leadership role in the HOA movement in Chengdu. He is the director of the Chengdu Fuhe River Democratic Home Owners Association (Chengdu HOA), a functioning, but unregistered non-governmental organization (NGO). Xie has worked on homeowners' rights issues in ChQgdu since 2004. The American scholar has spent the last four months studying grassroots governance in HOAs in Beijing, Guangzhou, Shanghai, Chengdu and Chongqing. He describes HOAs as a central point for possible

future democratic reforms in China.

#### Local Governance: Where Do HOAs Fit In?

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¶13. (U) Sub-district governments advise and supervise what residents do in their communities. For example, they promulgate local ordinances, participate in city planning, and assist with family planning supervision. Sub-district governments also appoint neighborhood committees, even though technically the committees should be elected by residents, according to 2003 real estate regulations issued by the State Council. The 2003 regulations also stipulate that all communities should have a HOA and that sub-district governments and neighborhood committees should supervise the HOAs. The neighborhood committees are powerful because they control the key stamp that a HOA needs to register, in effect, having veto power over the establishment of HOAs. In many cities in China, according to the scholar, HOAs are starting to demand rights to have a say in who is on neighborhood committees and are advocating for specific candidates.

#### How to Establish a HOA

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¶14. (U) In order for a community to organize an election for an HOA, it must first establish a "preparatory committee" (choubei zu). A resident must show a property deed to a home and evidence they have paid the management fee in order to be a nominee for a HOA. The number of candidates in HOAs varies because residents write their own rules for elections. The 2003 regulations mandate that HOAs have between seven and nine members. The local Bureau of Construction, whose Property Rights Division approves HOAs, will not register a group that has less than the required number of members. Because it is very hard to get approval, many communities maintain only HOA "preparatory committees."

#### Who Joins an HOA?

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¶15. (C) Members of HOAs are diverse, according to the American

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scholar, who claimed that many "June Fourth" leaders are becoming involved in their communities as leaders of HOAs. In addition to older retired residents, new HOA members often fall within the 38-42 year-old age range. From a socio-economic perspective, Xie in a separate meeting said there is a wide spectrum of income ranges among communities in Chengdu. Some HOAs don't have an office or a phone line in their community, while others are much more "sophisticated and organized." Separately, the American scholar noted that upper-class homeowners seem to be staying away from the homeowner rights protection movement because they don't want the attention. The movement is sensitive and many individuals involved are being scrutinized by public security officials.

¶16. (U) Another tool bringing together potential members of homeowners associations is "QQ Quan," a chat group composed of people who have purchased properties that are not yet constructed. The American scholar described one group of Beijing participants in QQ Quan that organized to meet with their developer as a group to negotiate move-in details before their properties were constructed. Other groups throughout the country have studied this model, and more than 12 other groups have organized communal move-ins. These groups of individuals serve as the foundations for HOAs in their communities.

#### The Homeowners "Movement" in Chengdu

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¶17. (C) Chengdu has 600 small communities (made up of one or more housing developments) and 20-30 street-level and sub-district governments. Within Chengdu's Third Ring Road, there are five established HOAs. Recently Xie Surong and a group of HOA leaders who began organizing in 2004 established an association of HOAs called the Chengdu Fu River Democratic Home Owners Association (Chengdu HOA), which includes leaders from approximately 100 of Chengdu's communities and represents

several thousand middle-class home owners. The Sichuan Province Yanyangchu Research Institute agreed to act as a sponsor for the Chengdu HOA in the NGO registration process, but the Bureau of Civil Affairs refused to register the group. The government offices that have a more direct relationship to the subject matter of the Chengdu HOA, the Chengdu Property Bureau and Chengdu Construction Association, are unwilling to act as sponsors of the organization, Xie lamented. Frustrated with the lack of progress in having a legal status, some members of the Chengdu HOA have proposed trying to register as a form of social club.

#### Inability to Register Doesn't Slow Organizing

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¶18. (C) In spite of the fact that the group has been unable to register, it has begun to hold meetings and plan activities to raise awareness of homeowner issues. In April, the Chengdu HOA held a roundtable meeting to discuss the 2003 Real Estate Law and gain a better understanding of homeowner rights. The group also hoped to learn about the rights protection experiences of some of the more affluent neighborhoods.

¶19. (C) The American researcher, who was able to attend the meeting, described the organization's goals as

- Promoting research on how HOAs have successfully protected the rights of home owners;
- Preventing HOAs from violating resident's rights;
- Increasing awareness of the problems homeowners face and provide this information in public fora, including the Internet; and
- Providing examples of these problems to government officials in order to seek resolution of problems.

He said he believed the group's affiliation with researchers from the Sichuan Academy of Social Sciences (SASS) would give it legitimacy and potential backing in the eyes of the government.

#### Roadblocks to Grassroots Organizing

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¶10. (C) Xie said the most difficult obstacle for the Chengdu HOA is discord among members about the goals of the organization. Some members of the group, like himself, are in the organization in order to protect homeowner rights and promote democratic governance at the local level. Xie remarked that others participate only to make money for themselves. This ideological divergence of opinion makes it hard for the Chengdu HOA to agree on approaches to bettering their communities, Xie concluded.

¶11. (C) Xie described a series of "cultural activities" the

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Chengdu HOA planned to hold in each of the five districts of Chengdu over the weeklong May Labor Day holiday. (Note: the planned events included a movie night, exercise for retired residents and dances, for example. End note). All five activities had to be cancelled because the Chengdu HOA could not gain government approval. Xie explained that the process for approval was very burdensome because it required permission from the Cultural Spirit Office of the Propaganda Department of the Chengdu Community Party Committee. The Office expressed its unfamiliarity with the Chengdu HOA and made an excuse, according to Xie, that it would not approve the activities because the HOA did not yet have the corporate sponsorship to pay for them. The Chengdu HOA had previously garnered pledges of corporate support pending government approval of the events.

#### Will Academic Study of HOA Assist the Movement?

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¶12. (C) When asked whether academic interest and study by two researchers of SASS would promote government acceptance or the ability to register of the organization, Xie replied skeptically

that it would not. While he acknowledged that the study of how homeowners' rights are being protected in different Chengdu communities would provide very useful information to association members, it would not promote government acceptance of the movement. He opined that the SASS academics are doing research in order to assist provincial-level Communist Party leaders in carrying out policies to promote social stability. These policies will not necessarily consider the rights of homeowners. Moreover, the basic problem is that provincial leaders are afraid of the growth of civil society organizations that might undermine Party authority and the Chengdu HOA represents this growth, Xie asserted.

#### Corruption and Collusion by Real Estate Developers and Property Management Companies

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¶13. (C) One of the main reasons for the need for active HOAs, according to both Xie and the American academic in separate meetings, is the need to combat corruption and collusion between real estate developers and property management companies. Another challenge for homeowners results from the strong relationships between developers and government officials. When the developer is "in bed" with the government, homeowners have a weak voice in protesting mismanagement of their properties, according to Xie. He added that in Chengdu, most property management companies are "children born of the developers". Xie explained that these are illegal arrangements where developers set up property management companies to be run by their friends and relatives, violating regulations which stipulate there must be an open bidding process among experienced property management companies.

#### HOAs Lack Control Over Communal Assets

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¶14. (C) Lack of control over communal assets is a big problem for homeowners. Xie said that in many cases, in violation of homeowner rights, the developer and/or property management company take for themselves what should belong to the residents. He described one community in Chengdu where the developer and property management company built a structure on the community property. They rented it as a grocery store business and now control the income from the rent of the space. According to the Real Estate Law, Xie said, these should be communal assets. In a Chongqing community several HOA members discovered they were being overcharged almost double for a variety of fees and services, to the tune of 10,000 RMB (USD 1,290) per household. The HOA has taken the case to court on behalf of its members. Parking and property management fees are other types of income exploited by property management companies, according to the American scholar.

¶15. (C) Developers want to control this communal income, so they may "use" or pay off "friendly" residents on the HOA to assure the HOA does not vote out its "friendly" property management company, thus endangering its ability to control community assets. According to the scholar, many HOAs in China have been co-opted by property management companies and neighborhood committees because they fear the power of the HOAs to hire new management companies. Courts have also allowed HOAs to sue developers and management companies, with some success. The problem in many cases, Xie emphasized in a separate meeting, is that residents do not know their rights or how to protect them -- that is why HOAs are important.

#### Corruption in Land Development

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¶16. (C) In his interviews with developers, the American scholar encountered a real estate developer who spoke candidly about the corruption that literally begins at the "ground level." In one

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community an hour's drive from Chengdu, a developer described an auction process in which one developer (of a total of eight) bidding on a project brought a dozen "politically connected thugs" to the auction. The auctioneer opened the bidding with a price that was 800,000 RMB (USD 103,000) below the market value

of the property. According to the developer, not a single other bidder raised the stakes, and the developer walked away with a "steal" that he could turn around and sell for significant profit. According to the same developer, the next stage of the process required property management companies with at least one year of experience to bid on the job. In this case, the developer formed its own property management company (which had no experience) and did not put out a call for bids.

#### Homeowner Rights Advocacy in Beijing

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¶17. (C) Homeowner rights advocacy in Beijing is at a much more advanced stage than it is in Southwest China, according to the scholar. In Beijing, a lawyer named Qing Bing is working with HOAs to advocate for rights against developers. The Beijing Association of HOAs (Beijing Yezhu Weiyuanhui Xiehui) is an organization representing 500 communities and based in the Xin Tian Di community.

¶18. (SBU) The scholar recounted the ongoing case of the Beijing community "Times Manor" that has an issue involving electricity services. When the property was being developed, the electricity company ran a temporary line to the development. Later, it converted the line to a permanent line to power the community. In one section of the development, the company failed to establish a permanent line or to connect it to the grid. That part of the community suffered frequent power outages. The residents of that section of the community sued the property management company and won a judgment. The court ordered the company to repay the residents the 400,000 RMB (USD 51,600) they had spent to pay for a functioning electrical system. The developer appealed the judgment and the case is ongoing.

¶19. (C) The residents also decided to vote to remove the property management company. Unexpectedly, a new neighborhood committee was formed -- with the developer's wife as the head -- to defend the property management company. In order to protect its rights the community decided to organize an HOA. The residents were successful in registering their HOA with the district government. The government upheld the rights of the new HOA and said the newly established neighborhood committee could not organize an election, only the current HOA had the right to have an election to vote out a property management company. In this case, according to the scholar, it was clear that the developer was paying off people to start a neighborhood committee to try to control the HOA and protect the developer's interests.

¶20. (C) Comment: The nascent homeowner rights protection movement in Chengdu is clearly something that has the potential to be beneficial to a growing segment of middle-class property owners who are at risk of being exploited by profit-hungry developers and property management companies. Similar to other rights protection movements, however, it runs the risk of being stymied by local governments uncomfortable with large and vocal groups that, in their view, present a threat to social stability and to their authority.

BOUGHNER